

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

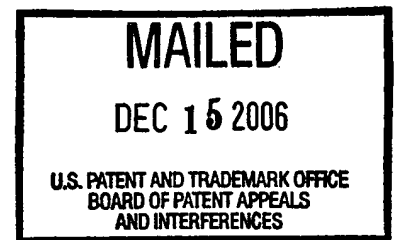
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte FRANK W. ADAMS, LEANDRE ADIFON, PEDRO BARANDA,
MARC CHEVILLIARD, JEAN-NOEL CLOUX,
MASASHI KAWARASAKI, YUTAKA MATSUMOTO,
JEAN-PIERRE MENARD, JEAN-PIERRE POUIGNY and
BRUCE ST. PIERRE

Appeal No. 2006-0422
Application No. 09/163,259

ON BRIEF



Before FRANKFORT, MCQUADE, and BAHR, Administrative Patent Judges.

MCQUADE, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Pursuant to 37 CFR § 41.52(a)(1), Frank W. Adams et al. request rehearing of our decision rendered March 28, 2006. In the decision, we sustained the examiner's 35 U.S.C. § 103(a) rejections of claims 1 and 19 as being unpatentable over Aulanko (EP 0 710 618) in view of

Pearson (US 1,035,230) and claims 2-6 and 8 as being unpatentable over Aulanko in view of Pearson and Olsen (US 4,664,230).

The appellants ascribe error to the combination of Aulanko and Pearson proffered by the examiner to reject claims 1 and 19, the two independent claims on appeal. By extension, the appellants' arguments also apply to the rejection of dependent claims 2-6 and 8 (see page 5 in the rehearing request). As independent claim 19 stands or falls with independent claim 1 for purposes of the appeal (see page 3 in the decision), we shall consider the arguments advanced in the rehearing request in light of claim 1.

Consistent with the position taken in their main and reply briefs, the appellants do not dispute:

a) that "Aulanko teaches, or would have suggested, an elevator system responsive to all of the limitations in claim 1 except for the one requiring the drive motor to drivingly couple and suspend the elevator car and counterweight via at least one 'flat rope'" (decision, page 5),

b) that Pearson discloses the use of "flat ropes" for this purpose (see page 6 in the decision), and

c) that "the Aulanko elevator system, as so modified in view of Pearson [to employ flat ropes], would respond to all of the limitations in claim 1" (decision, page 6).

Instead, the appellants continue to urge, as they did in the briefs, that the proposed combination of Aulanko and Pearson is unsound. To this end, the appellants raise three points that we allegedly misapprehended or overlooked in coming to the conclusion that "Pearson's description of the desirable tractive characteristic of 'flat ropes' used in an elevator environment . . . would have provided the artisan with ample suggestion to employ flat ropes to implement Aulanko's generic teaching of hoisting ropes" (decision, pages 6 and 7).

Point 1

"The Decision indicates that the [sic] Aulanko teaches space savings 'essentially' and 'primarily' by eliminating the machine room. To the contrary, Aulanko discloses horizontal space savings as an objective and as an advantage of the elevator presented therein" (request, page 2).

The appellants cite to several passages in the Aulanko reference (see page 2 in the request) that supposedly attach considerable importance to limiting the horizontal footprint or cross-section of the elevator shaft in order to reduce the building space allotted to the elevator system. These passages purportedly indicate that such objective is achieved by using a relatively flat drive machine unit that is positioned above, and is no thicker than, the elevator's counterweight. The appellants submit

(see page 3 in the request) that we overlooked this aspect of the Aulanko disclosure in dismissing their contention that a drive machine unit adapted for flat ropes would be inconsistent with Aulanko's space-saving objectives.

This line of argument is unpersuasive for at least two reasons.

To begin with, the column and line numbers of the Aulanko reference cited by the appellants simply do not set forth the disclosures attributed thereto, and in some cases do not even exist. In this regard, the appellants appear to have confused the Aulanko reference applied in support of the appealed rejections with some other reference.¹ The Aulanko reference does teach that the elevator system disclosed therein "allows efficient utilisation of the cross-sectional area of the elevator shaft" (column 2, lines 14-15) and that "machine unit 6 . . . is of a flat construction as compared to its width" (column 3, lines 22-23). It does not, however, express any particular concern about the size of the elevator shaft's horizontal footprint, or teach that the thickness of the machine unit 6 should be no larger than that of the counterweight. As pointed out in the decision (see pages 4 and 7), and as

¹ The record shows that the Aulanko reference was submitted by the appellants on January 20, 1999 in an information disclosure statement.

evidenced by Aulanko's description of the disadvantages of prior elevator systems (see column 1, line 3, through column 2, line 26), the building space economy sought by Aulanko flows essentially or primarily from the elimination of the separate machine room typically associated with elevators. Our observation that "[a]ny slight increase in the size of Aulanko's drive machine unit due to the use of flat ropes would not negate this objective" (decision, page 7) does not contradict any part of the Aulanko disclosure.

The appellants' position is also unconvincing even if one finds in Aulanko a common sense suggestion to minimize the elevator shaft footprint. As stated in the decision, "[t]he record contains no evidence that the use of flat ropes would significantly enlarge the size, or change the relatively flat configuration, of Aulanko's drive machine unit so as to require an elevator shaft which is larger to any appreciable degree" (page 7).

Point 2

"The Decision indicates that Aulanko does not specify the exact nature of the hoisting ropes, a shortcoming that the Examiner cures by turning to Pearson. To the contrary, the ropes in Aulanko are shown as being round" (request, page 3).

On this point, the appellants submit that "Figures 5 and 6 [in the Aulanko reference] clearly illustrate the ropes 102, 302 as having a standard, round cross-section. Therefore, the use of the flat ropes of Pearson does not cure a shortcoming in the teachings of the [sic] Aulanko, but rather deviates from the teachings thereof" (request, page 3).

Here again, the appellants seem to be discussing a reference other than the applied Aulanko reference. Aulanko includes but a single drawing figure (Figure 1) that depicts hoisting ropes 3 in schematic form. The underlying disclosure does not convey any detail as to the physical nature of these ropes. Our conclusion that Pearson would have suggested the use of flat ropes "to implement Aulanko's generic teaching of hoisting ropes" (decision, page 7) does not conflict with Aulanko's limited disclosure of ropes 3.

Point 3


"The decision indicates that Applicant's [sic] assertion regarding sheave elongation is 'unsupported conjecture,' and the 'record contains no evidence that the use of flat ropes would significantly enlarge the size, or change the relatively flat configuration, of Aulanko's drive machine so as to require an elevator shaft which is larger to any appreciable degree.' However, the record does support the conclusion that the sheave elongation would be significant" (request, page 3).

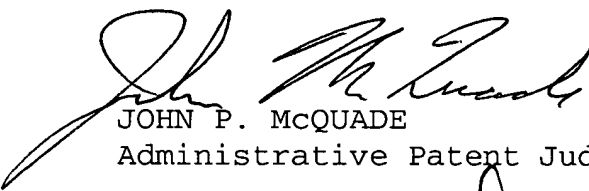
The so-called support in the record for the proposition that the use of flat ropes would significantly enlarge the sheave(s) 7 associated with Aulanko's drive machine unit 6 consists of Aulanko's alleged depiction of hoisting ropes in Figures 5 and 6 and purported disclosure that the thickness of the machine unit 6 should be no larger than that of the counterweight (see pages 3 and 4 in the request).. As explained above, however, Aulanko does not include any such depiction or disclosure. To reiterate (see page 7 in the decision), the record contains no evidence supporting the appellants' conjecture as to how much Aulanko's drive machine unit 6 and sheave(s) 7 would have to be enlarged to accommodate flat ropes.

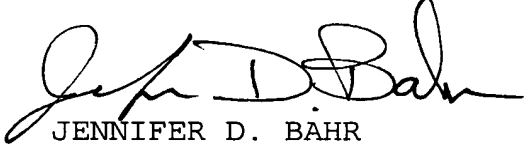
In summary, we have reconsidered our decision in light of the appellants' request for rehearing, but decline for the reasons expressed above to make any changes therein.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

DENIED


CHARLES E. FRANKFORT
Administrative Patent Judge


JOHN P. MCQUADE
Administrative Patent Judge


JENNIFER D. BAHR
Administrative Patent Judge

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